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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------|-------------|----------------------|---------------------|------------------|
| 10/712,794 | 11/12/2003 | Robert D. Westcott | 1083-66502 | 7783 |
| 24197 | 7590 | 04/18/2006 | EXAMINER | |
| KLARQUIST SPARKMAN, LLP | | | MANOHARAN, VIRGINIA | |
| 121 SW SALMON STREET | | | ART UNIT | PAPER NUMBER |
| SUITE 1600 | | | | |
| PORTLAND, OR 97204 | | | 1764 | |

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/712,794 | WESTCOTT, ROBERT D. | |
| | Examiner | Art Unit | |
| | Virginia Manoharan | 1764 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) . Responsive to communication(s) filed on 06 February 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 34-41 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Applicant's election of Group I, claims 1-33 in the reply filed on February 6, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors, e.g., typographical, grammar, idiomatic, syntax and etc. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claims 1-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) The preamble of claim 1 recites "a distillation system" , however the body of the claim does not mention an evaporator and a condenser defining said distillation system. See also claims 6, 24 and 26.

b). The claims are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The fluid passageways; and the reflux vent, for examples only, are not positively recited as structures of the system in claim 1; and in claim 6 respectively. See also claim 24. Also, what device sealingly

attached the edges of the sloped portion to the respective inside surfaces of the walls, as recited e.g., in claim 26. [It is noteworthy that a "means plus function" is authorized by 35 USC 6th paragraph].

Claims 13 and 30 are objected to because the recitation of "that" is redundant. Appropriate correction is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westcott (4,929,312) in view of Bruno (5,217,904) and Files (4,836,891).

Westcott discloses substantially the features of the apparatus as claimed. See Fig. 1. The apparatus of Westcott differs from the claimed invention in that claim 1, for example, recites a plate situated in the interior space so as to divide the space into an upper portion and a lower portion ; and a thermally conductive member extending on an inside surface of a wall into the liquid.

However, Bruno (see claims at cols. 4-6) teaches the concept of a partition plate dividing the concentrator into an upper and a lower chamber; and Files teaches the concept of providing a thermally conductive member, i.e., a thermosyphon means (see claims at cols. 8-10) in a concentrator. Given these concepts [In re Bascom, 230 F. 2d 612, 109 USPQ 98 (CCPA 1956)], one would have been led to modify Westcott's

apparatus by incorporating a plate and a thermally conductive member, as in claim 1, motivated by the reasonable expectation of providing an improved distillation system. The "wherein" clauses in independent claims 1 and 24-25 do not define any elements or devices of an apparatus, and accordingly cannot be distinguished from the prior art in the structural sense.[A process limitation is not the basis for patentability of an apparatus claim].

Claims 6-23 and 26-33 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a). Brett et al and Moss both disclose a solvent recovery apparatus.
- b). Keammerer discloses a device for dividing liquids.
- c). Pottharst discloses a distillation apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia Manoharan whose telephone number is 571-271-1450.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Calderola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


VIRGINIA MANOHARA
PRIMARY EXAMINER
ART UNIT 125/1764
